



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

JAN 15 2016

CERTIFIED MAIL NO. 7015 0640 0007 0638 0447
RETURN RECEIPT REQUESTED

Mr. Stoney M Stubbs Jr.
CEO and President
FFE Transportation Services, Inc.
1145 Empire Central Pl.
Dallas, TX 75247

Dear Mr. Stubbs:

Region IX of the U.S. Environmental Protection Agency (the "EPA") is issuing this letter to determine the Clean Air Act, 42 U.S.C. §§ 7401-7671q (the "Act"), compliance status of FFE Transportation Services, Inc. ("FFE") with respect to Section 2025 of the California Code of Regulations, Title 13, Article 4.5, Chapter 1, which is the California Air Resources Board's ("CARB") "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles" (the "Truck and Bus Regulation"). The Truck and Bus Regulation is included in the federally-approved and federally-enforceable State Implementation Plan for the State of California.¹

Pursuant to Section 114 of the Act, 42 U.S.C. § 7414, FFE is hereby required to provide the following information requested in this letter within forty-five (45) calendar days after receipt of this letter. In responding to this request, FFE shall use the instructions provided in Enclosure 1.²

- 1) For each diesel-fueled vehicle in FFE's fleet³ driven in California at any time from May 4, 2012 to the date of this letter with a Gross Vehicle Weight Rating ("GVWR")⁴ greater than 26,000 pounds and an engine model year prior to 2007, provide the following:

¹ The full text of the federally approved Truck and Bus Regulation is available at <http://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2011-0544-0047&attachmentNumber=5>.

² Enclosure 1, Instruction 5, identifies which responses to this request should be entered into the provided workbook on the attached CD called TRUCKINFO.xlsx.

³ As defined in Section 2025(d)(28) of the Truck and Bus Regulation.

⁴ As defined in Section 2025(d)(33) of the Truck and Bus Regulation.

- a) state of vehicle registration;
 - b) license plate number;
 - c) vehicle identification number (“VIN”);
 - d) engine model year;
 - e) engine family;
 - f) assigned vehicle terminal, if applicable; and
 - g) whether such vehicle has been retired or sold.
- 2) For each vehicle identified in response to request 1, indicate whether the vehicle has been equipped with a diesel particulate filter (“DPF”).⁵ If the answer to this request is “no,” skip requests 3, 4, 5 and 6 below.
- 3) For each vehicle for which the response to request 2 is “yes,” provide the following information about the DPF on the vehicle:
- a) DPF manufacturer;
 - b) DPF family name;
 - c) DPF serial number;
 - d) date of purchase; and
 - e) date of installation.
- 4) For each vehicle for which the response to request 2 is “yes,” produce a copy of the installation and purchase order documents for each DPF installed.
- 5) State whether each vehicle for which the response to request 2 is “yes” has operated continuously with a DPF as it was designed since installation.
- 6) For each vehicle for which the response to request 5 is “no,” describe the reason(s) it did not operate continuously with a DPF as it was designed since installation and produce a copy any records supporting the reason(s).
- 7) For each diesel-fueled vehicle in FFE’s fleet⁶ driven in California at any time from May 4, 2012 to the date of this letter, that is not equipped with PM BACT;⁷ has a GVWR greater than 26,000 pounds; and has an engine model year of 2007, 2008, or 2009, provide the following:
- a) state of vehicle registration;
 - b) license plate number;
 - c) VIN;
 - d) engine model year;
 - e) engine family; and

⁵ As defined in Section 2025(d)(17) of the Truck and Bus Regulation.

⁶ As defined in Section 2025(d)(28) of the Truck and Bus Regulation.

⁷ As defined in Section 2025(d)(48) of the Truck and Bus Regulation.

- f) assigned vehicle terminal, if applicable.
- 8) For each vehicle identified in response to request 1 or 7, specify the total miles traveled in California for:
- a) calendar year ("CY") 2012 (only from May 4, 2012 through December 31, 2012);
 - b) CY 2013;
 - c) CY 2014;
 - d) CY 2015; and
 - e) CY 2016 to the date of this information request.
- 9) For each vehicle identified in response to request 1 or 7, specify whether the vehicle is a drayage truck.⁸
- 10) For each vehicle identified in response to request 1 or 7, provide a copy of fleet mileage summary documents submitted to the International Registration Plan ("IRP")⁹ from May 4, 2012 to the date of this letter. These fleet summary documents could include monthly, quarterly, or annual mileage for each vehicle driven in California and other states.
- 11) Provide the terminal name, address, telephone number, and contact person for each terminal identified in response to requests 1(f) and 7(f), if any.
- 12) For each diesel-fueled vehicle hired or dispatched¹⁰ by FFE at any time from May 4, 2012 to the date of this letter, with a GVWR greater than 26,000 pounds and an engine model year prior to 2007, provide the following:
- a) the name of the company that owned the vehicle that was hired or dispatched;
 - b) the contact person(s) for the company identified in request 12(a) who was responsible for providing the vehicle that was hired or dispatched to FFE;
 - c) the phone number(s) and address(es) for the contact person(s) identified in request 12(b);
 - d) the date the vehicle was initially hired or dispatched;
 - e) whether the vehicle was hired or dispatched during:
 - (1) CY 2012 (only from May 4, 2012 through December 31, 2012);
 - (2) CY 2013;
 - (3) CY 2014;
 - (4) CY 2015; and
 - (5) CY 2016 to the date of this information request; and

⁸ As defined in Section 2025(d)(19) of the Truck and Bus Regulation.

⁹ As defined in Section 2025(d)(38) of the Truck and Bus Regulation.

¹⁰ As used in Section 2025(x)(2) of the Truck and Bus Regulation.

- f) for each vehicle hired or dispatched in response to request 12(e) above, specify whether the vehicle is part of a fleet of 3 or less vehicles or greater than 3 vehicles.

13) For each vehicle identified in response to request 12:

- a) describe in detail how FFE verified that each vehicle hired or dispatched in California was in compliance with the Truck and Bus Regulation and its recordkeeping requirements, as required by Section 2025(x)(2) of the Truck and Bus Regulation; and
- b) provide copies of documents establishing vehicle compliance such as a Certificate of Reported Compliance¹¹ or a written statement or contract from the company that owned the vehicle that was hired or dispatched, that verifies compliance with the Truck and Bus Regulation.

14) For each diesel-fueled vehicle leased by FFE to transport product to, from or within California at any time from May 4, 2012 to the date of this letter, with a GVWR greater than 26,000 pounds and an engine model year prior to 2007, provide the following:

- a) VIN;
- b) state of vehicle registration;
- c) license plate number;
- d) engine model year;
- e) engine family;
- f) assigned vehicle terminal;
- g) whether the vehicle has a diesel particulate filter (yes or no);
- h) date vehicle no longer operated in California; and
- i) total miles operated in California during:
 - (1) CY 2012 (only from May 4, 2012 through December 31, 2012);
 - (2) CY 2013;
 - (3) CY 2014;
 - (4) CY 2015; and
 - (5) CY 2016 to the date of this information request;
- j) vehicle owner name and contact person(s) who was responsible for providing the leased vehicle to FFE; and
- k) phone numbers(s) and address(es) for the contact person(s) identified in request 14(j).

15) For each vehicle identified in response to request 14:

- a) state whether or not FFE is the fleet owner;¹²
- b) if FFE is not the fleet owner, describe the basis for that conclusion; and

¹¹ As described in Section 2025(y) of the Truck and Bus Regulation.

¹² As defined in Section 2025(d)(29) of the Truck and Bus Regulation.

- c) if FFE is not the fleet owner, provide a copy of all rental or lease agreements or other evidence, if applicable, which supports that conclusion.

16) Provide a brief summary of the actions FFE has taken to comply with the Truck and Bus Regulation including but not limited to 2025(g) (model year), 2025(i) (phase in) and 2025(x)(2). Also include the dates these actions were taken.

17) Is FFE a California Based Broker?¹³ Why or why not?

If FFE seeks to withhold any document(s) based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, FFE shall provide with its response a privilege log for each document containing the following information: (i) the date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients; (ii) the subject matter of the document; (iii) the privilege claimed for the document and all facts supporting the claim of privilege; (iv) the primary purpose(s), including the business purposes, for which the document was made; (v) the question(s) in this information request to which the document is responsive to; and (vi) all facts contained in the document that are responsive to a question in this information request.

The responsive information shall be accompanied by a cover letter sent via certified mail with return receipt requested to the following address:

Ms. Kathleen H. Johnson
Director, Enforcement Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Attn: Elfego Felix (ENF-2-1)

Please be advised that under Section 113(a) of the Act, 42 U.S.C. § 7413(a), failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 113(b) of the Act, 42 U.S.C. § 7413(b), provides for the assessment of a civil penalty, which has been adjusted for inflation to \$37,500 per day, for each violation of the Act. See 40 C.F.R. § 19.4 (for penalties effective after January 12, 2009). In addition, Section 113(c) of the Act, 42 U.S.C. § 7413(c), provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under the Act. The information provided by FFE may be used by the United States in administrative, civil, or criminal proceedings.

¹³ As defined in Section 2025(d)(10) of the Truck and Bus Regulation.

You may, if you desire, assert a confidential business information ("CBI") claim on behalf of FFE covering part or all of the information provided to EPA in response to this letter. Any such CBI claim must conform to the requirements set forth in 40 C.F.R. Part 2, particularly 40 C.F.R. § 2.203, and contain supporting documentary evidence. See also 41 Fed. Reg. 36,902, 36,907 (Sep. 1, 1976). In addition, any such claim must be substantiated in accordance with 40 C.F.R. § 2.204(e)(4).

Specify by page, paragraph and sentence when identifying information from a document where you make a CBI claim. Where your claim does not include all information on a page, please attach a copy of each such page with brackets around the text you claim to be CBI. If a page, document, or group or class of documents claimed by you to be CBI contains a significant amount of information which our Regional Counsel determines is not CBI, your CBI claim regarding that page, document, or group or class of documents may be denied.

You are advised that certain information may be made available to the public pursuant to Section 114(c) of the Act, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. Please note that emission data provided pursuant to Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. Emission data is defined at 40 C.F.R. § 2.301(a)(2). If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to FFE.

This information request is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not the "collection of information" within the meaning of 44 U.S.C §§ 3502(3) and 3518(c)(1), since it is being issued during the conduct of an investigation involving the EPA against specific individuals or entities. See also 5 C.F.R. § 1320.4.

We would also like to take this opportunity to advise you that FFE may qualify as a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please review the enclosed SBREFA Information Sheet, which is designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA's enforcement activities. Please be aware that SBREFA does not eliminate FFE's responsibility to respond in a timely fashion to any complaint or information request that EPA may issue or other enforcement action that EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman.

FFE shall submit its response to this request postmarked no later than forty-five (45) calendar days after receipt of this letter. All information submitted in response to this request must be certified in a signed, separate statement as true, correct, accurate, and complete, to the best of his/her knowledge, by an individual with sufficient knowledge and authority to make such representations on behalf of FFE. On the last page of your response to this information request, include the certification contained in Enclosure 2.

If FFE anticipates that it will not be able to respond fully to this request within the time period specified, FFE must submit a sworn declaration by a responsible corporate official within ten (10) calendar days after receipt of this letter specifying what information will be provided by the allotted deadline, describing the efforts that have been/are being undertaken to obtain the remaining other responsive information, and providing a detailed schedule of when such other responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which to respond to this information request. Also, please contact EPA if FFE determines that a full response to a particular request for information would require the submission of an extremely large number of documents or data files. Based upon such notification, EPA may modify the scope of the documents required to be produced.

If you have any questions regarding this request, please contact Elfego Felix of my staff at (415) 947-4141; or your attorney can contact Daniel Reich, Office of Regional Counsel at (415) 972-3911. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kathleen H. Johnson", with a long horizontal flourish extending to the right.

Kathleen H. Johnson
Director, Enforcement Division

Enclosures

cc: Todd Sax, California Air Resources Board

ENCLOSURE 1: Instructions

1. Prepare a cover letter that includes a written response to all requests referencing the request number to which each answer or document pertains. In addition, attach to the cover letter the signed certification by a corporate official with authority to make such representations for FFE Transportation Services, Inc. ("FFE"), described in the body of the above information request letter.
2. To the extent that FFE has no responsive information or documents for any particular request, this must be explicitly stated in the response.
3. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.
4. To the extent that a document is responsive to more than one request, this must be so indicated and only one copy of the document need be provided.
5. Please include data in the provided workbook called TRUCKINFO.xlsx, located on the attached CD, in an electronic format. Follow the instruction in TRUCKINFO.xlsx under the "Instructions" tab. The Instructions tab requires, in part, that:
 - a. the responses to requests 1, 2, 3, and 5 shall be entered in the enclosed file TRUCKINFO.xlsx under the "Older Fleet" tab;
 - b. the responses to request 7 shall be entered in the enclosed file TRUCKINFO.xlsx under the "2007-2009 Fleet" tab;
 - c. the responses to requests 8 and 9 shall be entered in the enclosed file TRUCKINFO.xlsx under the "Older Fleet" tab or "2007-2009 Fleet" tab, respectively;
 - d. the responses to request 11 shall be entered in the enclosed file TRUCKINFO.xlsx under the "Terminals" tab; and
 - e. the responses to request 12 shall be entered in the enclosed file TRUCKINFO.xlsx under the "Hired or Dispatched" tab; and
 - f. the responses to requests 14(a) through (k) and 15(a) shall be entered in the enclosed file TRUCKINFO.xlsx under the "For Lease" tab.
6. All data not submitted in TRUCKINFO.xlsx must be provided in spreadsheet format (e.g., Excel format) rather than as images.
7. All responsive documents must be:
 - a. provided as an accurate and legible copy in a searchable PDF file format;
 - b. submitted on a disk (CD or DVD media); and
 - c. number stamped in sequential order (e.g. BATES stamped).

ENCLOSURE 2: Statement of Certification

[This Certification is for signature by the president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions of the corporation.]

FFE Transportation Services, Inc. ("FFE") is submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") request for information, issued pursuant to Section 114(a) of the Clean Air Act, to determine whether the facility is in compliance with the Clean Air Act, including with the federally-approved California Truck and Bus Regulation.

I certify that I am fully authorized by FFE to provide the above information on its behalf to EPA.

I certify under penalty of law that I have personally examined and am familiar with the statements and information submitted in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, correct, accurate and complete. I am aware that there are significant penalties for submitting false statements and information, or omitting required statements and information, including the possibility of fines and imprisonment for knowing violations.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center

www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center

Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.